

RECEIVED

PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

2:06cv61-WKW

United States District Court		District	Middle District Alabama
Name (under which you were convicted):		Docket or Case No.:	
Jeffery Baker		CC-2003-249	
Place of Confinement:		Prisoner No.:	
Pike County Jail		UK	
Petitioner (include the name under which you were convicted)		Respondent (authorized person having custody of petitioner)	
Jeffery Baker Jr		Russell Thomas	
The Attorney General of the State of			
Troy King			

## PETITION

- (a) Name and location of court that entered the judgment of conviction you are challenging: Pike County Circuit Court, Troy Alabama 120 W. Church St.
- (b) Criminal docket or case number (if you know): CC-2003-249
- (a) Date of the judgment of conviction (if you know): \_\_\_\_\_
- (b) Date of sentencing: October 7, 2003
- Length of sentence: 180 days County Jail
- In this case, were you convicted on more than one count or of more than one crime? Yes ☒ No ☐
- Identify all crimes of which you were convicted and sentenced in this case: Honorsman 13A-8-11(a), Criminal Mischief 13A-7-23
- (a) What was your plea? (Check one)
 

(1) Not guilty <input checked="" type="checkbox"/>	(3) Nolo contendere (no contest) <input type="checkbox"/>
(2) Guilty <input type="checkbox"/>	(4) Insanity plea <input type="checkbox"/>

(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? \_\_\_\_\_

Not guilty both charges

(c) If you went to trial, what kind of trial did you have? (Check one)

Jury ☒ Judge only ☐

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

Yes ☐ No ☒

8. Did you appeal from the judgment of conviction?

Yes ☒ No ☐

9. If you did appeal, answer the following:

(a) Name of court: Court of Criminal Appeals of Alabama

(b) Docket or case number (if you know): CR-04-0068

(c) Result: Affirmed August 26, 2005, Rehearing denied Dec. 16, 2005

(d) Date of result (if you know): August 26, 2005, Rehearing denied Dec. 16, 2005

(e) Citation to the case (if you know): \_\_\_\_\_

(f) Grounds raised: Whether petitioner knowingly, intelligently, and voluntarily waived his constitutional right to counsel at trial.

(g) Did you seek further review by a higher state court? Yes ☐ No ☒

If yes, answer the following:

(1) Name of court: \_\_\_\_\_

(2) Docket or case number (if you know): \_\_\_\_\_

(3) Result: \_\_\_\_\_

(4) Date of result (if you know): \_\_\_\_\_

(5) Citation to the case (if you know): \_\_\_\_\_

(6) Grounds raised: \_\_\_\_\_

(h) Did you file a petition for certiorari in the United States Supreme Court?

Yes ☐ No ☒

If yes, answer the following:

(1) Docket or case number (if you know): \_\_\_\_\_

(2) Result: \_\_\_\_\_

(3) Date of result (if you know): \_\_\_\_\_

(4) Citation to the case (if you know): \_\_\_\_\_

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court?

Yes ☒ No ☐

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: Supreme Court

(2) Docket or case number (if you know): 1050463

(3) Date of filing (if you know): January 9, 2006

(4) Nature of the proceeding: Petition Extraordinary Writ and Restraining order.

(5) Grounds raised: Whether petitioner is entitled to due notice of the rehearing denial, and if so, to vacate and set aside the certificate of judgment of the Court of Criminal Appeals.

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes ☐ No ☒

(7) Result: No result

(8) Date of result (if you know): \_\_\_\_\_

(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court: Court of Criminal Appeals of Alabama

(2) Docket or case number (if you know): CR-04-0068

(3) Date of filing (if you know): January 9, 2006

(4) Nature of the proceeding: Motion to vacate and set aside C.O.A.

(5) Grounds raised: Whether petitioner is entitled to notice of rehearing denial.

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes ☐ No ☒

(7) Result: denied

(8) Date of result (if you know): January 10, 2006

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court: United States District Court, Middle of Alabama

(2) Docket or case number (if you know): 2006 CV 43-MEF

(3) Date of filing (if you know): January 18, 2006

(4) Nature of the proceeding: Petition for Declaratory Judgment

(5) Grounds raised: Whether Petitioner is entitled to his First, Sixth, and Fourteenth Amendments Rights

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes ☐ No ☒

(7) Result: UK

(8) Date of result (if you know): \_\_\_\_\_

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: Yes ☐ No ☒

(2) Second petition: Yes ☒ No ☐

(3) Third petition: Yes ☐ No ☒

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not: The Alabama Supreme Court is the highest state court. Second, I appeared to the S. Ct. on the motion to set aside. This court has not entered any results on the petition.

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: Whether Petitioner knowingly, intelligently, and voluntarily waive his constitutional right to counsel.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): When asked, petitioner requested Sixth Amendment Counsel one more than four occasions. Petitioner never asserted a clear and unequivocal right to self representation as required by Faretta v. California, 422 U.S. 806 (1975).

(See Attached Ground one and Memorandum in support.

(See Attached memorandum in support of petition for writ of Habeas corpus.)

(b) If you did not exhaust your state remedies on Ground One, explain why: State failed to serve notice that petitioners Rehearing Application had been denied. OR The U.S. Postal Service failed to deliver same to petitioners Mailbox at 1353 Co. Rd. 3348. See 2:06 CV43-MEF Above.

(c) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☒ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☒ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: ~~Motion For New Trial, Motion For Judgment of~~

Name and location of the court where the motion or petition was filed: ~~Pike County Circuit Court, Troy, AL 36081 120 W. Church Street~~

Docket or case number (if you know): ~~CC-2003-249~~

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☒

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☒

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: \_\_\_\_\_

**GROUND TWO:** Petitioner is subjected to excessive  
Sentence in violation of the 8th Amendment to the U.S. Const

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): \_\_\_\_\_

The Alabama Rules require the Judge to sentence  
according to the gravity of the crime, Rule 26.1.  
Petitioner purportedly caused \$10.00 in damage, but is  
required to pay excessive fines and complete anger  
management classes. Said classes constitutes future custody  
for purposes of 28 U.S.C section 2254.  
See attached memorandum

(b) If you did not exhaust your state remedies on Ground Two, explain why: Unlucky Attorney failed to raise the issue, Petitioner raised the issue in his Pro-se Motion for New Trial

(c) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☐ No ☒

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☒

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☒

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

---

---

---

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: Petitioner requested Trial Court to modify Sentence.

**GROUND THREE:**

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

*MA*

---

---

---

---

---

---

---

---

- (b) If you did not exhaust your state remedies on Ground Three, explain why:

---

---

---

**(c) Direct Appeal of Ground Three:**

- (1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

- (2) If you did not raise this issue in your direct appeal, explain why:

---

---

**(d) Post-Conviction Proceedings:**

- (1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☐ No ☐

- (2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

---

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: \_\_\_\_\_

**GROUND FOUR:** \_\_\_\_\_

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): \_\_\_\_\_

MA

(b) If you did not exhaust your state remedies on Ground Four, explain why: \_\_\_\_\_

**(c) Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

**(d) Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☐ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: \_\_\_\_\_

13. Please answer these additional questions about the petition you are filing:

(a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? Yes ☐ No ☒

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them: See Exhaustion Attached

(b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: \_\_\_\_\_

N/A

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? Yes ☒ No ☐

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available. M. D. Ala, 2: CV 43- MEF

Complaint For Declaratory Relieve, no pending disposition  
Copy not available.

- If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. M. D. Ala. 2:06CV43-MEF

- (a) At preliminary hearing: NO Attorney

- (b) At arraignment and plea: No Attorney

- (c) At trial: No Attorney

- (d) At sentencing: No Attorney

- (e) On appeal: Jeffery C. Robinson (Rob 122)  
P.O. Box 910 Selma, AL 36702-0910

- (f) In any post-conviction proceeding: \_\_\_\_\_  
\_\_\_\_\_

- (g) On appeal from any ruling against you in a post-conviction proceeding: \_\_\_\_\_

- (a) If so, give name and location of court that imposed the other sentence you will serve in the future: Pike  
County Circuit Court, 120 W. Church Street Troy, AL 36061

- (b) Give the date the other sentence was imposed: March 1, 2005

- (c) Give the length of the other sentence: 90 days

- (d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? Yes ☒ No ☐

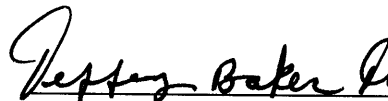
18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.\*

Handwritten text: "N/A"

\* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of —
  - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
  - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
  - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
  - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.
- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

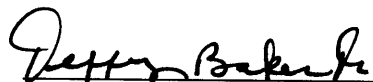
Therefore, petitioner asks that the Court grant the following relief: Declare whether Petitioner  
Knowingly, intelligently, and voluntarily waived his Sixth Amendment  
Right to Counsel according to 11th Circuit Law, and order New Trial.  
or any other relief to which petitioner may be entitled.



Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this  
Petition for Writ of Habeas Corpus was placed in the <sup>U.S. mail</sup> ~~prison mailing~~ system on January 20, 2006  
\_\_\_\_\_ (month, date, year).

Executed (signed) on January 20, 2006 (date).



Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing  
this petition. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\*\*\*\*\*